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REMARKS

The present Amendment and Response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Status of Claims

Claims 1-26 are pending. Claims 1-26 have been rejected.

Claims 14-17, 21, 22, 24 and 25 have been amended herein.

Claims 1-13 have been canceled herein without prejudice or disclaimer. In making this cancellation without prejudice, Applicants reserve all rights in these claims to file divisional and/or continuation patent applications.

CLAIM REJECTIONS

35 U.S.C. § 112 Rejections

In the Office Action, the Examiner rejected claims 1-26 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 4, 9 and 12 have been canceled without prejudice and therefore the rejection to these claims is now moot.

Claims 14, 17 and 22 have been amended to overcome the deficiencies noted by the Examiner. It is respectfully asserted that the claims have been amended according to the Examiners suggestions.

With respect to claim 25, Applicants submit that the average diameter of the aortic arch is common knowledge and would be obvious to one skilled in the art.

Applicants respectfully assert that these amendments render claims 1-26 proper under 35 USC §112 and request that the rejections be withdrawn.

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35 U.S.C. § 101 Rejections

In the Office Action, the Examiner rejected claims 1-26 under 35 U.S.C. § 101.

Claims 1-13 have been canceled without prejudice and therefore the rejection to these claims is now moot.

Claims 14 and 17 have been amended such that the main blood vessel has not been positively claimed.

Accordingly, Applicants respectfully request that the rejection of claims 1-26 under 35 USC §101 be withdrawn.

35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 1-26 under 35 U.S.C. § 103(a), as being unpatentable over Marotta et al. (US 6,676,696 "Marotta") in view of Yassour et al. (US 6,348,063 "Yassour").

Applicants respectfully traverse the rejections of claims 1-26 in view of the remarks that follow.

Claims 1-13 have been canceled without prejudice and therefore the rejection to these claims is now moot.

Independent claim 14 as amended includes, *inter alia*:

"said implant device comprising:

an anchoring section of an expansible tubular construction for firmly anchoring the implant device in said branch blood vessel; and

a diverter section integrally formed with said anchoring section to project into said aortic arch at the upstream side of said branch blood vessel when the anchoring section is anchored in the branch blood vessel;

said diverter section being constructed to permit flow of the blood through said aortic arch, and including an outer surface configured to face the upstream side of the aortic arch effective to divert emboli in the blood from entering said branch blood vessel".

Marotta discusses the use of an implant device in order to block the opening of an aneurysm. By blocking the opening of the aneurysm, the aneurysm will be obliterated. Therefore, the device according to Marotta is designed such that blood may flow through

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both the main artery and the secondary arteries. Marotta does not provide a means through which emboli will be prevented from entering the secondary arteries. Further, Applicants submit that Marotta does not discuss the use of a diverter. The Examiner describes the diverter of Marotta as being the portion of the device which sits in the main artery (reference number 110). This portion of the device which sits in the main artery does not divert emboli. As can be seen in Figure 5 of Marotta, this portion is designed in order to allow blood to flow through the main artery and into the secondary arteries and in no way does it divert emboli.

Yassour discusses an implantable device that comprises an element which prevents the flow of embolic material from the common carotid artery into the internal carotid artery. As can be seen in Figure 3 of Yassour, the device is implanted in the internal carotid artery in order to prevent any embolic material from entering into the internal carotid artery and forces the embolic material to flow into the external carotid artery. Yassour does not describe a device which includes a diverter which projects into the common carotid artery. Further Yassour does not teach of an implantable device to be used in the aortic arch as described in amended claim 14.

The combination of Marotta and Yassour does not teach or suggest at least the claimed device of amended claim 14.

Therefore, amended independent claim 14 is allowable over combination of Marotta and Yassour. Each of claims 15-26 includes all the features of claim 14 as well as additional distinguishing features, and is therefore similarly allowable.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. §103(a) of claims 1-26 be withdrawn.

Conclusion

In view of the foregoing amendments and remarks, Applicants assert that the pending claims are allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to

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advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

The fee for the Petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) is being paid separately. No other fees are believed to be due associated with this paper. However, if any such fees are due, please charge such fees to deposit account No. 50-3355.

Respectfully submitted,



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